

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 10-14, 28-32, and 37-44 are pending in the application, with 10, 28, and 39 being the independent claims. Claims 1-9, 15-27, and 33-36 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 10 and 28 are amended to correct minor issues related to form, and not to amend around cited art. New claims 37-44 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

In paragraph 6 of page 2 of the Office Action, claims 10-14 and 28-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over “Avantgo Teams with Leading Publishers to Serve Up News for Mobile Users” (Avantgo) in view of International Publication No. WO 98/38614 to Boyd *et al.* (hereinafter Boyd). Applicants respectfully traverse the rejection, and request that it be withdrawn.

Applicants assert that a *prima facie* case of obviousness has not been established in the Office Action for at least the reason that the cited art does not teach or suggest each and every element of independent claim 10. For example, the preamble of claim 10

recites a method for providing channel tracking information to providers. The Office Action asserts that this is taught by Avantgo. Applicants respectfully disagree with this assertion, and assert that Avantgo does not teach or even suggest a method for providing channel tracking information to providers.

Upon close review, Applicants have determined that Avantgo teaches providers providing content to mobile users, *not* channel tracking information being provided to providers. For example, see the title of Avantgo, which states "Avantgo Teams with Leading Publishers to Serve Up News for Mobile Users." Furthermore, Avantgo describes various "publishers providing Web To Go content specifically designed for handheld computers" (page 2, 3rd paragraph of Avantgo). On page 2 of Avantgo, many examples of web content being provided by publishers to mobile users are described. For example, CNET NEWS.COM "provides the 20 latest technology and business articles separated into four categories: The Net, Business, Computing and Intranets" (page 2, 4th paragraph of Avantgo). Excite "is slated to provide updated news, sports, business and market information" (page 2, 5th paragraph of Avantgo). Infoworld "will offer 10 daily enterprise news stories, plus weekly product review summaries, and opinions" (page 2, 6th paragraph of Avantgo). Examples are also described on page 2 of Avantgo for Mercury Center, The New York Times, and Wired News. These examples all relate to content flowing *from* a provider, not to information flowing *to* a provider. Thus, Avantgo does not teach or suggest "a method for providing channel tracking information to providers," as recited in claim 10. Thus, claim 10 is patentable over Avantgo and Boyd for at least these reasons.

The Office Action further states that:

Neither reference expressly discloses enabling the provider to access a web site using a password protected mechanism, Official notice is taken that the use of passwords to restrict access, to only authorized users is well known in the art."

Applicants respectfully traverse this assertion of Official Notice by the Examiner, and assert that it is inadequate.

First, regardless of whether password protection is well known, this does not mean that the entire claim recitation of "enabling a provider to access a web site using a password protected mechanism" is rendered obvious. For example, as stated in the Office Action, neither Avantgo nor Boyd teaches enabling the provider to access a web site using a password protected mechanism, as recited in claim 10. Furthermore, even assuming, *arguendo*, that "password protection" is common knowledge in the art as asserted in the Office Action, this does not mean that it enabling a provider to access a web site using a password protected mechanism is obvious.

In the first place, it appears that the Examiner is making the assumption that it would be obvious to *enable a provider access to a website*. Secondly, it appears that the Examiner is assuming it would be obvious to enable a provider to access the website *using password protection*. However, no support for either of these apparent assertions have been provided in the Office Action in the context of the claimed invention. Thus, a *prima facie* case of obviousness has not been made, as the Office Action does not explain how the cited art teaches or suggests *all* of the claimed limitations (see M.P.E.P. § 2142).

Furthermore, if the assertion of Official Notice is to be maintained, Applicants respectfully request that the Examiner provide documentary evidence in the next Office

Action to support his assertion, as required in M.P.E.P. § 2144.03(C.). *See* 37 C.F.R. § 1.104(c)(2). *See also* Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or Examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). Thus, for example, if Official Notice is to be used to render obvious the entire claim portion "enabling a provider to access a web site using a password protected mechanism," Applicants request documentary evidence in this entire regard.

Thus, Applicants assert that Avantgo and Boyd do not teach or suggest enabling a provider to access a web site using a password protected mechanism, as recited in claim 10, for at least the reasons provided above. Thus, for at least this additional reason, claim 10 is patentable over Avantgo and Boyd.

Applicants assert that claim 10 is patentable over Avantgo and Boyd, alone or in combination, for at least the reasons stated above. Applicants further assert that independent claim 28, and new independent claim 39, are also patentable over Avantgo and Boyd for at least reasons similar to those provided for claim 10. Applicants assert that claims 11-14 and 29-32, and new claims 37, 38, and 40-44 which depend from claims 10, 28, and 39, are also patentable over Avantgo and Boyd for at least the reasons described above (with regard to their respective independent claim), and further in view of their own features. Accordingly, Applicants respectfully request that the rejection of the claims be reconsidered and withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read 'Jeffrey S. Weaver', with a long horizontal line extending to the right.

Jeffrey S. Weaver
Attorney for Applicants
Registration No. 45,608

Date: 12-2-05

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

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